



General Assembly

***Substitute Bill No. 5161***

*February Session, 2000*

***An Act Concerning Lost And Replacement Wages For Injured Employees.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 31-308a of the general statutes is repealed and the following  
2       is substituted in lieu thereof:

3       (a) In addition to the compensation benefits provided by section 31-  
4       308 for specific loss of a member or use of the function of a member of  
5       the body, or any personal injury covered by this chapter, the  
6       commissioner, after such payments provided by said section 31-308  
7       have been paid for the period set forth in said section, may award  
8       additional compensation benefits for such partial permanent disability  
9       equal to seventy-five per cent of the difference between the wages  
10      currently earned by an employee in a position comparable to the  
11      position held by such injured employee prior to [his] such employee's  
12      injury, after such wages have been reduced by any deduction for  
13      federal or state taxes, or both, and for the federal Insurance  
14      Contributions Act in accordance with section 31-310, and the weekly  
15      amount [which] that such employee will probably be able to earn  
16      thereafter, after such amount has been reduced by any deduction for  
17      federal or state taxes, or both, and for the federal Insurance  
18      Contributions Act in accordance with section 31-310, to be determined  
19      by the commissioner based upon the nature and extent of the injury,  
20      the training, education and experience of the employee, the availability

21 of work for persons with such physical condition and at the  
22 employee's age, but not more than one hundred per cent, raised to the  
23 next even dollar, of the average weekly earnings of production and  
24 related workers in manufacturing in the state, as determined in  
25 accordance with the provisions of section 31-309. If evidence of exact  
26 loss of earnings is not available, such loss may be computed from the  
27 proportionate loss of physical ability or earning power caused by the  
28 injury. The commissioner shall determine the duration of such  
29 additional compensation [shall be determined] upon a similar basis,  
30 [by the commissioner,] but in no event shall the duration of such  
31 additional compensation exceed the [lesser] greater of (1) the duration  
32 of the employee's permanent partial disability benefits, or (2) [five  
33 hundred twenty] two hundred sixty weeks. Additional benefits  
34 provided under this section shall be available only to (A) employees  
35 who are willing and able to perform work in this state, and (B)  
36 employees who are unable to perform work in this state due to a  
37 physical condition documented by a treating physician.

38 (b) Notwithstanding the provisions of subsection (a) of this section,  
39 additional benefits provided under this section shall be available only  
40 when the nature of the injury and its effect on the earning capacity of  
41 an employee warrant additional compensation.

42 (c) Notwithstanding the provisions of subsection (a) of this section,  
43 in calculating the additional compensation benefits available to an  
44 employee who is unable to perform work in this state due to a physical  
45 condition documented by a treating physician, the commissioner shall  
46 utilize the wages currently earned by an employee in this state in a  
47 position comparable to the position held by such injured employee  
48 prior to such employee's injury, after such wages have been reduced  
49 by any deduction for federal or state taxes, or both, and for the federal  
50 Insurance Contributions Act in accordance with section 31-310, and the  
51 weekly amount that such injured employee would probably be able to  
52 earn in this state thereafter, after such amount has been reduced by  
53 any deduction for federal or state taxes, or both, and for the federal  
54 Insurance Contributions Act in accordance with section 31-310, to be

55 determined by the commissioner based upon the nature and extent of  
56 the injury, the training, education and experience of the injured  
57 employee, the availability of work in this state for persons with such  
58 physical condition and at the employee's age, but not more than one  
59 hundred per cent, raised to the next even dollar, of the average weekly  
60 earnings of production and related workers in manufacturing in this  
61 state, as determined in accordance with the provisions of section  
62 31-309.

**LAB Committee Vote:** Yea 9 Nay 2 JFS

**APP Committee Vote:** Yea 24 Nay 22 JF